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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/710,305

07/01/2004

Dave Dooley

MASL-43

4304

37690

7590

02/09/2006

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EXAMINER

PEDDER, DENNIS H

ART UNIT

PAPER NUMBER

3612

DATE MAILED: 02/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/710,305	<b>Applicant(s)</b> DOOLEY ET AL.	
	<b>Examiner</b> Dennis H. Pedder	<b>Art Unit</b> 3612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 20 January 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>11/9/05, 12/7/05</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

- 0.5** The election is moot at this time due to the cancellation of claims 7-10.

### ***Response to Amendment***

1. The affidavit filed on 1/20/2006 under 37 CFR 1.131 has been considered but is ineffective to overcome the DeJongh reference.

The affidavit lacks evidence as to the alleged acts were carried out in this or a NAFTA country. See MPEP 715.07(c).

However, applicant may wish to pursue other courses of action in view of the additional references cited below.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1 and 4 are rejected under 35 U.S.C. 102(e) as being anticipated by DeJongh (US Patent 6,893,077).

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Regarding claims 1 and 4, DeJongh discloses a door trim panel (10) for attachment to a door frame of a motor vehicle, comprising: a main body portion (10) adapted to be removably secured to the door frame, said main body portion including an integral support surface (20,26); and an armrest (40) fastened to said main body portion (10), said armrest (40) including a plurality of spaced-apart projections positioned to contact said integral support surface to thereby support said armrest.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1 and 4 are rejected under 35 U.S.C. 102(one of a, b, e) as being anticipated by the prior art as admitted by applicant.

Applicant admits in paragraph 0003 that a nibbed armrest subassembly is directly attached to a trim panel or bolster in the trim panel. Since a nibbed arm rest subassembly inherently has spaced-apart projections and since direct attachment requires a support surface, claim 1 is anticipated, with the exact statute not yet defined by applicant as to date.

4. Claims 1-2, 4-5 are further rejected under 35 U.S.C. 102(b) as being anticipated by Konishi et alO US 5,803,415.

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Konishi et al. have main body trim panel with integral (definition: attached) support surface and armrest 4 with projections 5b.

As to claim 2, Konishi et al. has openings 3b and locking tabs at the terminal end of projections 5b.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Janz et al. (US Patent 4,456,644) in view of DeJongh.

Janz et al. disclose a door trim panel for attachment to a door frame of a motor vehicle, comprising: a main body portion (1) adapted to be removably secured to the door frame, said main body portion including an integral support surface (5); and an armrest (4) fastened to said

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main body portion (1), wherein said main body portion (1) includes a plurality of tab openings (12) positioned peripherally about said integral support surface (5), and said armrest (4) includes a plurality of spaced-apart locking tabs (7,10) each positioned to engage a corresponding one of said plurality of tab openings (12) (claims 2 and 5); wherein each of said plurality of spaced-apart locking tabs (7) includes a wedge-shaped body (7,11) adapted to engage said main body portion (1) about a corresponding one of said tab openings (12) (claims 3 and 6).

Janz et al. do not disclose a plurality of spaced apart projections positioned to contact the integral support surface.

DeJongh discloses an armrest for a trim panel of a vehicle which includes a plurality of projections (44) positioned to contact the integral support surface of the trim panel.

Janz et al. and DeJongh are analogous art because they are from the same field of endeavor, i.e., armrests for door trim panels.

At the time of the invention, it would have been obvious to one of ordinary skill in the art to include a plurality of projections positioned to contact the support surface as taught by DeJongh.

The motivation would have been to provide support for the armrest while allowing the armrest to be flexible.

Therefore, it would have been obvious to combine DeJongh with Janz et al. to obtain the invention as specified in claims 1-6.

5. Claims 1-6 are further rejected under 35 U.S.C. 103(a) as being unpatentable over Janz et al in view of Dry, US 6,899,363.

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See column 1, lines 21-24 of Dry. It would have been obvious to one of ordinary skill to provide in Janz et al. a nibbed armrest as taught by Dry in order to enhance comfort of the occupant.

As to claim 4, applicant admits attachment to a bolster panel in paragraph 0003.

6. Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's admitted prior art in view of Konishi et al.

As to claim 4, applicant admits direct attachment of bolster and armrest, hence It would have been obvious to one of ordinary skill to provide in the prior art as admitted by applicant armrest attachment as taught by Konishi et al. in order to securely attach.

***Response to Arguments***

7. Applicant's arguments with respect to claims above have been considered but are moot in view of the new ground(s) of rejection as well as the ineffectiveness of the affidavit.

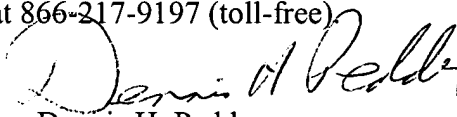
Should applicant traverse the above admitted prior art rejection, applicant is requested to provide dates of public use or sale of the admitted prior art.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis H. Pedder whose telephone number is (571) 272-6667. The examiner can normally be reached on 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn D. Dayoan can be reached on (571) 272-6659. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Dennis H. Pedder  
Primary Examiner  
Art Unit 3612

2/6/06

DHP  
2/6/2006